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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,278	11/28/2001	David Guedalia	NMS03-14	2332

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EXAMINER

PHAN, JOSEPH T

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/996,278

Applicant(s)

GUEDALIA ET AL.

Examiner

Joseph T Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/03/02, 02/27/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-5 and 14-15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4-5 and 14-15 line 2 recites "pre-recorded audio segments" or "advertisements". It is not known and unclear why these recorded audio segments are used as adding segments other than silence would make the final audio output substantially different than the original thereby confusing the user since there is mixed information. Appropriate clarification or correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-40 rejected under 35 U.S.C. 102(e) as being anticipated by Cohen, Patent # 6,389,032.**

Regarding claims 1 and 11, Cohen teaches a system and method for providing enhanced quality audio streaming, the system and method comprising:  
an audio streaming server providing an audio stream, a client including a buffer storing at least portions of said audio stream received from said audio streaming server,  
a buffer status sensor operative to monitor the contents of said buffer and a client audio output enhancer operative in response to an output from said buffer status sensor for providing a modified audio stream output(Fig.1, col.2 lines 16-33, col.5 lines 57-67)

Regarding claims 2 and 12, Cohen teaches a system and method according to claims 1 and 11 and wherein said client audio output enhancer is operative to provide said modified audio stream including inserted audio segments which were not received from said audio streaming server(Fig.1, col.2 lines 16-33, col.5 lines 57-67)

Regarding claims 3 and 13, Cohen teaches a system and method according to claims 2 and 12 and wherein said inserted audio segments comprise silence(Fig.1, col.2 lines 16-33, col.5 lines 57-67)

Regarding claims 4 and 14, Cohen teaches a system and method according to claims 2 and 12 and wherein said inserted audio segments comprise pre-recorded audio segments(Fig.1, col.2 lines 16-33, col.5 lines 57-67).

Regarding claims 5 and 15, Cohen teaches a system and method according to claims 2 and 12 and wherein said inserted audio segments comprise advertisements(Fig.1, col.2 lines 16-33, col.5 lines 57-67)

Regarding claims 6 and 16, Cohen teaches a system and method according to claims 1 and 11 and wherein said client comprises a telephone(col.6 lines 1-5).

Regarding claims 7 and 17, Cohen teaches a system and method according to claims 2 and 12 and wherein said client comprises a telephone(col.6 lines 1-5).

Regarding claims 8 and 18, Cohen teaches a system and method according to claims 1 and 11 wherein said client comprises a telephone and an IVR(col.6 lines 1-5).

Regarding claims 9 and 19, Cohen teaches a system and method according to claims 2 and 12 and wherein said client comprises a telephone and an IVR(col.6 lines 1-5).

Regarding claims 10 and 20, Cohen teaches a system and method according to claims 1 and 11 and wherein said client provides a real time output(col.2 lines 3-15).

Regarding claim 21 and 31, Cohen teaches a system and method for providing sophisticated seeking in an audio stream, the system and method comprising an audio streaming server providing an audio stream  
an audio sampler, intermittently sampling portions of said audio stream, an audio sampling store, storing said portions sampled by said audio sampler; and an audio stream portion navigating seeker operative to sequentially render said portions(col.5 lines 27-67).

Regarding claims 22 and 32, Cohen teaches a system and method according to claims 21 and 31 operative to sample complete phrases(col.5 lines 28-67).

Regarding claims 23 and 33, Cohen teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to insert at least one audible tone among said portions rendered thereby(col.2 lines 40-67).

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Regarding claims 24 and 34, Cohen teaches a system and method according to claims 21 and 31 and wherein said audio sampler is voice command responsive(col.2 lines 40-67).

Regarding claims 25 and 35, Cohen teaches a system and method according to claims 21 and 31 and wherein said audio sampler samples portions which are selected generally periodically(col.2 lines 40-67).

Regarding claims 26 and 36, Cohen teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to render via a telephone(Fig.1, col.2 lines 16-33, col.5 lines 57-67).

Regarding claims 27 and 37, Cohen teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to render via an IVR and a telephone(Fig.1, col.2 lines 16-33, col.5 lines 57-67).

Regarding claims 28 and 38, Cohen teaches a system and method according to claims 23 and 33 and wherein said audio stream portion navigating seeker is operative to render via a telephone(Fig.1, col.2 lines 16-33, col.5 lines 57-67).

Regarding claims 29 and 39, Cohen teaches a system and method according to claims 23 and 33 and wherein said audio stream portion navigating seeker is operative to render via an I and a telephone(Fig.1, col.2 lines 16-33, col.5 lines 57-67).

Regarding claims 30 and 40, Cohen teaches a system and method according to claims 21 and 31 and also comprising a user operative, seeking responsive audio stream renderer, operative to render the audio stream beginning from a sampled portion

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selected by a user(Fig.1, col.2 lines 16-33, col.5 lines 57-67),

**4. Claims 1-40 rejected under 35 U.S.C. 102(e) as being anticipated by Kramer et al., Patent #6,658,027.**

Regarding claims 1 and 11, Kramer teaches a system and method for providing enhanced quality audio streaming, the system and method comprising:  
an audio streaming server providing an audio stream, a client including a buffer storing at least portions of said audio stream received from said audio streaming server,  
a buffer status sensor operative to monitor the contents of said buffer and a client audio output enhancer operative in response to an output from said buffer status sensor for providing a modified audio stream output(col.2 lines 8-35 and col.10 lines 44-67).

Regarding claims 2 and 12, Kramer teaches a system and method according to claims 1 and 11 and wherein said client audio output enhancer is operative to provide said modified audio stream including inserted audio segments which were not received from said audio streaming server(col.10 lines 44-67).

Regarding claims 3 and 13, Kramer teaches a system and method according to claims 2 and 12 and wherein said inserted audio segments comprise silence(col.10 lines 44-67).

Regarding claims 4 and 14, Kramer teaches a system and method according to claims 2 and 12 and wherein said inserted audio segments comprise pre-recorded audio segments(col.8 lines 1-19; internet radio is pre-recorded).

Regarding claims 5 and 15, Kramer teaches a system and method according to claims 2 and 12 and wherein said inserted audio segments comprise advertisements(col.8 lines 1-19; internet radio are advertisements).

Regarding claims 6 and 16, Kramer teaches a system and method according to claims 1 and 11 and wherein said client comprises a telephone(10 Fig.1 and 680 fig.6).

Regarding claims 7 and 17, Kramer teaches a system and method according to claims 2 and 12 and wherein said client comprises a telephone(10 Fig.1 and 680 fig.6).

Regarding claims 8 and 18, Kramer teaches a system and method according to claims 1 and 11 wherein said client comprises a telephone and an IVR(10 Fig.1 and 680 fig.6).

Regarding claims 9 and 19, Kramer teaches a system and method according to claims 2 and 12 and wherein said client comprises a telephone and an IVR(10 Fig.1 and 680 fig.6).

Regarding claims 10 and 20, Kramer teaches a system and method according to claims 1 and 11 and wherein said client provides a real time output(col.10 line 44-67).

Regarding claim 21 and 31, Kramer teaches a system and method for providing sophisticated seeking in an audio stream, the system and method comprising an audio streaming server providing an audio stream  
an audio sampler, intermittently sampling portions of said audio stream, an audio sampling store, storing said portions sampled by said audio sampler; and an audio stream portion navigating seeker operative to sequentially render said portions(col.5 lines 28-67 and col.10 lines 44-67).



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Regarding claims 22 and 32, Kramer teaches a system and method according to claims 21 and 31 operative to sample complete phrases(col.5 lines 28-67).

Regarding claims 23 and 33, Kramer teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to insert at least one audible tone among said portions rendered thereby(col.5 lines 28-67 and col.10 lines 44-67).

Regarding claims 24 and 34, Kramer teaches a system and method according to claims 21 and 31 and wherein said audio sampler is voice command responsive(col.5 lines 28-67 and col.10 lines 44-67).

Regarding claims 25 and 35, Kramer teaches a system and method according to claims 21 and 31 and wherein said audio sampler samples portions which are selected generally periodically(col.5 lines 28-67 and col.10 lines 44-67).

Regarding claims 26 and 36, Kramer teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to render via a telephone(col.5 lines 28-67 and col.10 lines 44-67).

Regarding claims 27 and 37, Kramer teaches a system and method according to claims 21 and 31 and wherein said audio stream portion navigating seeker is operative to render via an IVR and a telephone(col.5 lines 28-67 and col.10 lines 44-67).

Regarding claims 28 and 38, Kramer teaches a system and method according to claims 23 and 33 and wherein said audio stream portion navigating seeker is operative to render via a telephone(col.5 lines 28-67 and col.10 lines 44-67).

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Regarding claims 29 and 39, Kramer teaches a system and method according to claims 23 and 33 and wherein said audio stream portion navigating seeker is operative to render via an I and a telephone(col.5 lines 28-67 and col.10 lines 44-67).


Regarding claims 30 and 40, Kramer teaches a system and method according to claims 21 and 31 and also comprising a user operative, seeking responsive audio stream renderer, operative to render the audio stream beginning from a sampled portion selected by a user(col.5 lines 28-67 and col.10 lines 44-67).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 9:00-6:30, in every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP March 2, 2005



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